Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, May 18, 2005
1:30 p.m.
Room 2040

Consultants: Dave O'Toole, Danny Alvarez

"C" AGENDA

ISSUES PROPOSED FOR VOTE ONLY (page 3)

0110 Senate
0120 Assembly
0130 Legislative Analyst
0500 Governor's Office
0750 Lieutenant Governor's Office
2.00 Availability of Appropriations
11.52 Transfer of Unencumbered Bal. of Various Funds to the General Fund
12.00 State Appropriations Limit (SAL)
12.30 Special Fund for Economic Uncertainties
13.00 Legislative Counsel Bureau
25.25 21st Century Project
34.00 Constitutional Severability
35.50 Estimated General Fund Revenue pursuant to ACA 5 of the 5th Extraordinary Session
36.00 Provides that Budget Act is for Usual and Current Expenses
37.00 Urgency Clause
99.00 Alphabetical Organization Index
99.50 Numerical Control Section Index

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DISCUSSION ITEMS

Issues Proposed for Vote Only:

ITEM	ISSUE	STAFF RECOMMENDATION
0110—Senate	State Appropriations Limit Adjustment	Adopt technical budget adjustment to increase schedule (4) of this item by $1,041,000
0120—Assembly	State Appropriations Limit Adjustment	Adopt technical budget adjustment to increase schedule (4) of this item by $1,412,000
0130—Legislative Analyst's Office	State Appropriations Limit Adjustment	Adopt technical budget adjustment to adjust 0130-021-0001schedules as follows: (1) $220,000 (2) -$35,000 (3) -$35,000 (4) -$150,000 (Provision 4 reflects a schedule for reimbursements)
0500—Governor's Office	(none)	Approve as budgeted
0750—Lieutenant Governor's Office	(none)	Approve as budgeted
Control Section 2.00:	Availability of Appropriations	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52
Control Section 11.52	Transfer of Unencumbered Balance of Various Funds to the General Fund	Approve as budgeted
Control Section 12.00	State Appropriations Limit (SAL)	Reduce item by $1,000,000 (for the purpose of ensuring this item goes to conference for a subsequent revision)
Control Section 12.30	Special Fund for Economic Uncertainties	Approve as budgeted
Control Section 13.00	Legislative Counsel Bureau	Approve as budgeted
Control Section 25.25	21st Century Project	Approve as budgeted
Control Section 34.00	Constitutional Severability	Approve as budgeted
Control Section 35.50	Estimated General Fund Revenue pursuant to ACA 5 of the Fifth Extraordinary Session	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52
Control Section 36.00	Provides that Budget Act is for Usual and Current Expenses	Approve as budgeted
Control Section 37.00	Urgency Clause	Approve as budgeted
Control Section 99.00	Alphabetical Organization Index	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52
Control Section 99.50	Numerical Control Section Index	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52

VOTE:

0160 Legislative Counsel

The Legislative Counsel Bureau provides legal assistance to the two houses of the Legislature, their members and its committees by resolving a large volume of complex legal problems arising in connection with the legislative process. The legal services furnished include rendering opinions, drafting bills, counseling, attendance as counsel at meetings of legislative committees, and representing the Legislature in litigation. In addition, the Bureau prepares and provides necessary indices and appropriate tables necessary to identify legislative measures and compiles and indexes statutes and codes. The Bureau operates the Legislative Data Center, which provides information technology services in support of the legislative information system and the processing of legislative measures.

1. Enterprise Strategic Initiative. The Legislative Counsel requests $1,000,000 (General Fund) for development of an Enterprise Strategic Initiative (ESI) project to replace the existing data collection and distribution system. Key risks associated with not replacing the existing system are that technologies will become unsupported, bills may not get done, constituents won't be represented, negative constituent opinion, emergency measures in time of disaster may be prohibited, unable to meet public disclosure mandates.

Key enhancements of the ESI will include:

- Enterprise data repository for immediate and reliable access to critical information
- Reduced risks of service outages that impact legislative business operations resulting from using current and proven technology
- Improved data recovery capability due to consolidated and controlled data services, minimizing down time should a service interruption occur
- Trusted, reliable environment to store critical information within systems that directly support the legislative process
- Better performance through the use of current technologies
- Enterprise design and use of technologies and application services for cost-effective purchases of equipment and software

Staff Recommendation: Augment Item 0160-001-0001 by $1,000,000 and add the following provisional language:

1. Of the appropriation authorized by this item, $1,000,000 is intended as an initial expenditure to support the Enterprise Strategic Initiative project, which is designed to replace information technology applications that are critical to the mission of the Legislative Counsel Bureau. It is the intent of the Legislature to make additional budget augmentations to fund this project in future fiscal years.

VOTE:

0595 PROPOSED: Office of the State Inspector General

1. **Establishment of Office of the State Inspector General**. The Administration proposes to establish an Office of the State Inspector General (OIG) to conduct audits, investigations, and program reviews for the Executive Branch. This office would differ from the Office of State Audits and Evaluations in that it would conduct investigations on its own initiative, without having received a directive from the Administration. The Department of Corrections (with its own Inspector General) will be excused from the purview of this new office.

   Within 60 days of the end of the fiscal year, the Inspector General would issue an annual report detailing audit, review, and investigative activities completed in that fiscal year.

   The Administration expects that approximately 50 percent of the costs for this Office will be generated by assessments on special and federal funds. Approximately 20 percent of the proposed Office of the State Inspector General's budget would be devoted to consultant services, the majority of which will be paid to private consultants.

   Trailer Bill for this proposal is attached.

   LAO Comment: Chapter 251, Statutes of 2004, (SB 1437, Speier) established in the Bureau of State Audits (BSA) a program to audit and issue reports on state agencies identified by the auditor as being at high risk for waste, fraud, abuse, and mismanagement. These are the same types of audits being proposed for OIG. The OIG would essentially duplicate reviews already authorized to be performed by the BSA.

   Staff Comment: Numerous statutes require the Department of Finance's Office of State Audits and Evaluations (OSAE) to perform audits of various state funds and/or programs. The Department's broad oversight responsibilities result in a wide variety of work being conducted, including financial audits, financial related audits, performance audits, information technology audits, internal control reviews, compliance audits, consulting, quality assurance reviews, and budgetary reviews. Additionally, the Department monitors and coordinates the implementation of the Financial Integrity and State Manager's Accountability Act (FISMA), and issues Audit Memos instructing internal audit organizations on audit policies, procedures, and requirements.

   FISMA and Government Code 13400 require each state agency to maintain effective systems of internal accounting and administrative controls. As the Governor's California Performance Review (CPR) notes, many state agencies have neglected to comply with the state law requiring effective systems of internal controls. Consequently, the risk of fraud, waste and abuse increases when internal controls are lacking. Additionally, financial statement reliability may also be compromised if independent validation and verification are not performed. According to the CPR, many agencies ignore FISMA; OSAE monitoring efforts have not been effective to ensure compliance – with 35 percent out of 161 state agencies submitting certification letters for the biennial period ending December 31, 2003.

   As discussed in the CPR, the OSAE audit chief, while aware of the noncompliance by many agencies, stated that OSAE does not have the proper enforcement authority to ensure all agencies comply. Neither FISMA nor SAM establishes enforcement responsibilities or sanctions. As a result, OSAE has limited its monitoring and coordination to recording the state agencies which file their certification letters and audit reports. In the past, OSAE performed more internal control audits of agencies without internal auditors. However, due to continuing budgetary constraints, OSAE has refocused its efforts to emphasize reimbursement work and has discontinued many of its FISMA related audits unless requested and paid for by the agencies. OSAE agrees that an agency level internal audit function would benefit the state because it would provide broader audit coverage through risk assessments of the agencies' departments and offices.

Staff Recommendations:

A. Reject the May Revision Finance Letter.

B. Augment the Bureau of State Audits budget by $1.15 million to provide staffing and associated resources for expanded audits in accordance with the authority provided in Chapter 251, Statutes of 2004, (SB 1437, Speier).

C. Augment the Department of Finance budget by $1.15 million to provide staffing and associated resources for audits by the Office of State Audits and Evaluations.

D. Adopt the following budget bill language in Item 8860-001-0001:

> *It is the intent of the Legislature that newly reorganized departmental entities maintain effective systems of internal accounting and administrative control as an integral part of its management practices. No less than $1,150,000 in this item shall be used for the purpose of assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds within any department or agency reorganized in the 2005-06 Legislative Session. The Department shall report to the fiscal committees of Legislature by December 1, 2005 on its preliminary review of the reorganized departmental entities, with a final report due no later than April 15, 2006.*

VOTE:

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with planning, research and liaison with local governments. OPR also oversees programs for small business advocacy, rural policy, environmental justice, and helps implement decisions made within the Administration. In addition, the office oversees responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and oversees the California Service Corps. Total proposed budget expenditures are $47.2 million, of which $4.1 million is from the General Fund.

1. **Trailer Bill: Elimination of the Small Business Reform Task Force**. The Administration proposes to repeal Section 65054.5 of Government Code related to the Small Business Reform Task Force in the Office of Planning and Research. This elimination is a part of the Governor's proposal to eliminate "nonessential" Boards, Commissions, and task forces. Funding and staffing for the Office of the Small Business Advocate would be unaffected by this proposal.

   The section proposed for deletion reads as follows:

   > 65054.5. (a) There is hereby created a Governor's Small Business Reform Task Force. The task force shall be chaired by the Director of the Office of Small Business Advocate and shall include representatives appointed by the Governor from the California Small Business Association, other small business associations, and agency secretaries or their designees from state agencies heavily involved
   > in small business regulation.
   > (b) The task force shall identify problems and ideas from the small business community concerning the regulation, communication, and assistance of state government with small business. The task force shall create a website to solicit public input, as well as, conduct at least four public hearings around the state to seek advice and recommendations.
   > (c) The task force shall conduct a study to consider the problems encountered by small businesses working with different levels of government, different offices in state and local government, and multiple jurisdictions, especially in the context of applying for and obtaining required permits and licenses. The study may include participation by the California League of Cities, county boards of supervisors, and small business representatives.
   > (d) The task force shall prepare and submit a report on or before May 1, 2002, to the Governor and the budget committee of each house of the Legislature with a discussion of its findings and recommendations.

   Staff Recommendation: Approve May Revision Finance Letter issue.

   VOTE:

2. **April Finance Letter: Support for the Office of the Secretary for Education.** The Administration has requested augmentation of the Office of Planning and Research and Office of the Secretary for Education budgets by $67,000 and $68,000, respectively, to expend grant funds received from the Broad, Gates, and Walton Family foundations. These grant funds are to be used to continue funding for two positions related to implementation of the Governor's Initiative to Turn Around Failing Schools. This request seeks the second year of an expected three years of funding for these positions.

   Staff Comment: This issue will also be taken up in Senate Subcommittee #1 on Wednesday, May 18.

   Staff Recommendation: Conform with Senate Subcommittee #1 actions as they relate to the foundation expenditures.

   VOTE:

3. **Support for the Office of Planning and Research and the Office of the Secretary for Education.** The Administration requests to increase funding in the Office of Planning and Research and Office of the Secretary for Education budgets by $91,000 and $90,000, respectively, to provide compensation for the Secretary of Education. Total compensation would be $181,000.

   The Administration further requests to increase reimbursement authority in the Office of the Secretary for Education and Office of Planning and Research for grants received from private foundations to support the Governor's Advisory Committee on Education Excellence. The Governor has convened a committee to focus on the issues of distribution and adequacy of education funding, the functioning and effectiveness of governance structures, teacher recruitment and training, and the preparation and retention of school administrators.

   Staff Comment: A corresponding augmentation is proposed in the Office of Secretary of Education budget.

   Staff Recommendation: Approve the May Revision Finance Letter.

   VOTE:

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) is to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. Total proposed budget expenditures are $124.7 million, of which $72.7 million is from the General Fund.

1. **Reappropriation of Funding for Apportionment Payment System.** The Administration requests that the State Controller's Item 0840-490 be added to reappropriate the unencumbered balance of funds appropriated by Control Section 25.50, Budget Act of 2004, for the Apportionment Payment System project. The Apportionment Payment System is a three-year project being developed to better accommodate modifications to apportionment formulas and ensure that payments to localities are not jeopardized by an aging disbursements system. The project is currently scheduled to award the vendor contract on June 8, 2005, at which time a payment will be due. If there is a vendor protest, the award date will be pushed into 2005-06, and this funding will be needed in 2005-06. The reappropriation language is as follows:

    0840-490 – Reappropriation, State Controller's Office
    The balance of the appropriation in Control Section 25.50, Budget Act of 2004, is reappropriated for purposes provided for in that appropriation and shall be available for encumbrance or expenditure until June 30, 2006.

    Staff Recommendation: Adopt the proposed budget bill language.

    VOTE:

2. **Human Resources Management System—21st Century Project.** The Administration requests that a portion of the funding provided for the 21st Century Project be shifted from Personal Services to Operating Expenses and Equipment (OE&E). The 21st Century Project involves the development of an integrated commercial-off-the-shelf human resources management system/payroll system to replace the state's existing payroll, employment, position management, and leave accounting systems, to develop a statewide time and attendance capability.

    Due to contract issues, non-compliant proposals, and other reasons, the Human Resources Management System (HRMS) project is at least six months behind schedule. As a result, State Controller's Office (SCO) will require a net reduction of seven positions in 2005-06 and certain OE&E costs will be pushed out to future years. In addition, the bid for the software portion of the project came in significantly below estimates. Due to these factors, SCO will now pay for the software license and one year of maintenance in full in 2005-06, rather than financing these costs over six years as originally planned. Overall funding for 2005-06 is unchanged.

    Beginning in 2006-07, General Fund costs, which were originally assumed to be vendor financed, will instead be paid as costs are incurred. While this will result in higher General Fund costs in the next three years, it will eliminate financing costs and thus reduce the overall cost of the project. General Fund costs in 2006-07 are currently estimated to be $15.3 million.

    Staff Recommendation: Approve the May Revision Finance Letter issue.

    VOTE:

3. **Audits for Handicapped/Disabled Student Programs and Seriously Emotionally Disturbed Pupil Programs.** The State Controller requests two-year limited term funding of $468,000 (General Fund) and 5.0 positions in support of auditing reimbursable state mandate claims filed by local government for audits for handicapped and disabled student programs and seriously emotionally disturbed pupil programs. The audits would determine whether costs claimed are supported by appropriate source documents, are ineligible for other funding sources, and are otherwise appropriate.

   Staff Comment: In the April 13 hearing, the Subcommittee adopted a staff proposal to augment the State Controller's budget by ten positions for the purpose of auditing state mandate claims. Presumably, those auditors could work on the workload identified in this Finance Letter.

   It is unclear how the proposed use for the five proposed auditors merits special consideration. If the State Controller believes that costs claimed are routinely ineligible for those mandates, an alternative would be to work with other state agencies and claimants to develop a reasonable reimbursement methodology.

   Staff Recommendation:
   DISCUSSION**:** The State Controller should report whether AB 3632 mandate claims deserve a higher priority for audit relative to other mandates.

   ACTION**:** Reject the May Revision Finance Letter issue.

   VOTE:

4. **Clarified Authority to Audit.** The State Controller's Office expressed concern that current law precludes them from fully auditing mandates. This is because the statute of limitations declares that auditing may occur no later than three years after a claim was filed or amended. Because this mandate (and many others) have been deferred in recent years (a process which provides for nominal $1000 appropriation in the budget bill) the SCO cannot audit claims 3 years beyond the last time it was deferred. A proposed solution to this problem would be to enact trailer bill amending the statute of limitations in Government Code section 17558.5 to permit audits beyond 3 years after filing or amendment for mandates that were not fully funded.

   Staff Comment: This issue was first addressed in a May 11 hearing. Because of uncertainty regarding the authority for the SCO to audit claims submitted prior to the existing time period (recommendation #3, below), the issue was left open. It has since been concluded that the new authority should be provided on a prospective basis only.

   Staff Recommendation: Authorize the SCO to initiate an audit of all mandates for three years beyond the existing time period provided for in Government Code 17558.5. This new authority will apply on a prospective basis only.

   VOTE:

0860 State Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department are the state's major tax collection agencies. The BOE collects state and local sales and use taxes and a variety of business and excise taxes and fees, including those levied on gasoline and diesel fuel, alcoholic beverages and cigarettes, as well as others. The BOE also assesses utility property for local property tax purposes, oversees the administration of the local property tax by county assessors, and serves as the appellate body to hear specified tax appeals, including FTB decisions under the personal income tax and bank and corporation tax laws. Total proposed budget expenditures are $364.9 million, of which $209.5 million is from the General Fund.

1. **Special Tax Jurisdiction Workload Increase.** The Administration requests that Item 0860-001-0001 be amended by increasing Reimbursements by $2,262,000 to provide the Board of Equalization with resources sufficient to add 27.7 positions for workload associated with the creation of 24 new Special Tax Jurisdictions during the 2004 election. These new positions will support local communities in collecting taxes pursuant to the recently enacted special taxes. The BOE is statutorily required to support the Special Taxing Jurisdictions. The 24 new Special Tax Jurisdictions are in addition to 35 that the Board currently administers.

   Staff Recommendation: Adopt the May Revision Finance Letter issue.

   VOTE:

2. **Supplemental Reporting Language of the 2004 Budget Act: Field Office Consolidations.** On May 11, the Subcommittee briefly discussed the Supplemental Reporting Language (SRL) accompanying the Budget Act of 2004, which required the BOE to report as follows:

   > *The BOE shall provide to the Chair of the JLBC and the chairs of the fiscal committees of the Legislature by December 1, 2004, a report containing the following information: (1) unit costs of providing taxpayer services and audit and collection activities at the BOE's 27 field offices; (2) net annual budgetary benefits of consolidating or closing four BOE field offices (one in each BOE district); (3) estimated impact on all BOE-collected tax revenues from field office consolidations or closures identified in (2) above; and (4) net annual benefits of reducing or eliminating the Houston office of BOE. Data provided shall include one-time and ongoing budgetary and revenue impacts. The information shall also be provided to the DOF.*

   The report provided pursuant to the SRL notes that BOE has closed 32 offices in the last 11 years, 28 of which were closed between 1994 and 1996. Over the last eight years, there has been a relative freeze on field office closures, with one closed in 1997, two in 1998, and one in 2004—with three offices opened during the same period. However, at that the May 11 hearing, the Board reported that a savings of $337,000 would be generated in the budget year related to closing the Stockton, Torrance, and Eureka offices. The BOE further expects to downsize the New York Office for a savings of $400,000, although this downsizing has not been finalized.

   Staff Comment: Based on the information contained in the report, measures of performance vary greatly among the field offices considered. Public counter staff in the 27 field offices assist between 200 and 2000 members of the public per year, depending on location. Program costs per visitor range from $24 per visitor (El Centro) to $425 per visitor (San Francisco). Number of permits issued by staff range from 376 (Ventura) to 5,246 (Eureka). These variances suggest that public counters are inconsistently utilized by the public across the state.

   The dramatic rise in the general public's use of information technology resources in the last eight years and availability of online materials suggests a diminished need for the public to visit a field office. Filing forms can be easily downloaded online and questions answered by phone or e-mail. According to the BOE, their Information Center receives approximately 650,000 telephone contacts; over 350,000 of which are responded to by a customer service representatives and 13,000 e-mails per year, with an overall average wait time of 90 seconds.. Additionally, at prior budget hearings the BOE has reported how it intends to broaden its use of EFT and e-file technologies, with the latter tax forms online. BOE will offer this service to 700,000 eligible businesses in December of this year.

Given these trends, it is recommended that the Subcommittee continue to monitor the evolving need for field offices. The following budget bill language is suggested:

The BOE shall provide to the Chair of the Joint Legislative Budget Committee and the chairs of the fiscal committees of the Legislature by April 1, 2006, a report containing the following information: (1) actual closure or consolidation information for the Torrance, Stockton, Eureka, and New York Offices, including: relocation costs, lease buy-out costs, the number of staff affected, current disposition of those staff, and the revenues generated annually by each office prior to closure, (2) A comprehensive description of the decision criteria used to close or consolidate those field offices, (3) the estimated impact on all BOE-collected tax revenues from field office consolidations or closures identified in (1) above. (4) the procedures for ongoing evaluation of field office performance and potential for consolidation and closures (5) the department's strategic plan for district office facilities as it relates to growth in electronic filing and processing. The BOE shall also report on the number of single entity electronic filers, subdivided by the closest field office. Data provided shall include one-time and ongoing budgetary and revenue impacts. The information shall also be provided to the Department of Finance.

Staff Recommendations:
DISCUSSION
Request the BOE report on the status of the New York City consolidation and expected savings.

ACTION
A. Reduce Item 0860-001-0001 by $337,000 to reflect closure and consolidation savings associated with closing the Stockton, Eureka, and Torrance offices.

B. Adopt the proposed budget bill language for reporting on office consolidation and closing processes.

VOTE:

3. **Electronic Filing.** Electronic tax filings (or submissions that can be scanned and converted to digital form) represent a small share of total tax returns to the BOE. The workload at BOE tends to be largely paper-driven, as submissions of documentation are generally still conducted through paper methods and, as a result, the processing of such submissions tends to be manually intensive.

The board began accepted e-filing over the Internet since 2001, but for the first half of 2004-05, BOE received only about 7,218 e-returns from a total of about 700,000 eligible retailers, in part this low participation is because e-filing must be done through private companies that charge fees. BOE now plans to develop a free in-house e-filing option for retailers that it will have on-line by December 2005. BOE has a target of a 10-percent increase in the number of electronic returns filed as a result of this free in-house e-filing option.

Budget year funding needs for the initial e-filing project is estimated to cost several thousand dollars. As an information technology project, the e-filing system requires approval of a feasibility study report, which has not yet been provided. Before the project proceeds, the FSR must be approved by the Department of Finance and reviewed by the LAO.

For the future, BOE indicates that it plans to allow e-filing of special taxes in addition to the Sales and Use Tax by 2008. The board also is planning to expand e-filing to include multiple-location retailers (only single-location businesses now qualify) by 2009.

The deployment of free e-filing capability by BOE in December 2005 will be a significant step forward. However, most large retailers have multiple locations and will not be able to e-file. The BOE does not plan to have an e-filing option in place for these large retailers until 2009. Also, e-filing for special taxes will not be available until 2008 under the board's schedule.

Staff Recommendations:
DISCUSSION: Request the BOE report on the status of an FSR for the e-filing project.

ACTION: Adopt Supplemental Report Language expressing intent for BOE to complete the expansion by 2007 (2 years earlier than currently planned) and direct the BOE to report on its progress by January 2006.

VOTE:

4. **Addressing the Sales and Use Tax gap.** The "tax gap" represents the shortfall between taxes owed and taxes paid. The BOE estimates that the 2003-04 tax gap for the sales and use tax totaled $1.18 billion annually, of which the state General Fund share was $1.1 billion. Aside from the $2.6 million from the consumer use tax proposal discussed in Issue 3, the BOE has no budget proposals to address the SUT tax gap. The BOE has recently testified on means to close the tax gap. These methods include:

    - Increasing use tax compliance by businesses. According to the BOE, the largest single component of the SUT tax gap results from failure of businesses to pay their use tax liability on purchases from out-of-state sellers. Noncompliance is a particular problem for businesses that are not registered with the BOE because they are not in the business of retailing.

    - Better control over the use of resale certificates. BOE has indicated that it will conduct an exploratory audit of resale certificates accepted by a sample of large retailers in order to determine the extent of tax evasion due to abuse of resale certificates. This would help to determine the scope of the problem.

    The following Supplemental Report Language would provide important information for identifying the scope of tax gap and initial solutions.

    The Board of Equalization shall report to the Legislature by December 1, 2005 on the Sales and Use Tax Gap-- the shortfall between taxes owed and taxes paid. The report shall update the board's estimate of the gap, and identify its major components. The report also shall identify specific strategies and steps for reducing the tax gap, estimate revenues that would be produced by and the cost of implementing each approach, and recommend those actions that the board determines would be most cost-effective and feasible. In addition, to the extent that the information is not provided in the December 1 report, the board shall report to the Legislature by February 1, 2006 on the methodology and findings of its pilot audit of the use of resale certificates, including the extent of compliance problems found by the audit and any options for improving compliance.

    One manner in which the sales tax gap is widened is in abuse of resale certificates. Retailers with seller's permits may legally purchase goods for resale without paying the sales and use tax (SUT). However, there are few controls in place to prevent abuse of this tax exemption. For example, to avoid paying sales tax, the purchaser need only present a "resale certificate." These certificates are easily purchased or printed over the Internet. The purchase must fill out their seller's permit number and the nature of their business. The seller must keep a copy of the resale certificate, but there is no requirement to verify that the permit number and the nature of their business.

Staff Recommendations:

A. Adopt the Supplemental Report Language provided above.

B. In an action to conform to an earlier Assembly budget decision, the BOE should execute an exploratory audit of the use of resale certificates.

VOTE:

5. **E-Waste Recycling Fee.** The Governor's Budget included a BOE request for 80 positions and $5,715,000 (reimbursements and special funds) to implement the new electronic waste recycling fee. Chapter 863, Statutes of 2004 (SB 50, Sher) required the BOE to collect the "e-waste" recycling fee.

Based on updated workload projections, the BOE has submitted revised fiscal detail information amending the original e-waste BCP to 69 positions and $4,999,000 (total reduction of 11 positions and $716,000).

LAO Comment: In terms of the other special taxes and fees that the BOE collects, the department's proposed budget for e-waste collections (as it appears in the Governor's Budget) appears to be on the high side. The existing Tire Recycling Fee Program provides a good comparison of costs, since, like the e-waste waste recycling fee, it is collected largely from retailers. For the Tire Recycling Fee Program, the BOE has about 16 positions and collects about $32 million, or one position for every $1.9 million collected. For the e-waste waste recycling fee, the BOE will have 77 positions in order to collect fees of $78 million, or one position for every $1 million collected. Although some start-up costs are expected with such a program, these seem excessive given costs associated with other special fee programs.

Staff Recommendation:

DISCUSSION:
Request the BOE report on the share of proposed expenditures that are attributable to set up costs, versus ongoing operating costs.

ACTION:
Reduce the BOE by a share of positions and funding to reflect a revised forecast of projected 2005-06 workload.

VOTE:

0890 Secretary of State

The Secretary of State (SOS) is the chief election officer of the State and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary laws, and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, Information Technology and Management Services Divisions. Total proposed budget expenditures are $76.4 million, of which $30.3 million is from the General Fund.

1. **Lease Revenue Bond Debt Service Adjustments.** The Administration requests that Item 0890-003-0001 be increased by $1,528,000 and Reimbursements be decreased by $1,557,000, associated with Lease Revenue Bond debt service adjustments reflected in a set aside Item in the January 10 Budget, related to Control Section 4.30 (Lease Revenue Payment Adjustments). The Administration further requests that the Secretary of State's Business Fees Fund item be increased by $482,000, and Reimbursements be decreased by $492,000, associated with Lease Revenue Bond debt service adjustments reflected in a set-aside Item in the January 10 Budget, related to Control Section 4.30.

   Staff Recommendation: Approve the May Revision Finance Letter issue.

   VOTE:

2. **Proposed Budget Bill Language to Provide Reappropriation for Help America Vote Act of 2002 Funds.** The Administration requests that Item 0890-490 be added to provide the Secretary of State reappropriation authority to continue the implementation of the Help America Vote Act of 2002. The proposed Budget Bill language is as follows:

   8260-490—Reappropriation, Secretary of State.
   The balance of the appropriations provided in the following citations is reappropriated for the purposes provided for in the appropriations and shall be available for encumbrance or expenditure until June 30, 2006:

   0890-Federal Trust Fund
   (1) Item 0890-001-0890, Budget Act of 2004 (Ch. 208, Stats. 2004).
   (2) Item 0890-101-0890, Budget Act of 2004 (Ch. 208, Stats. 2004).

   The spending plan approved by the Legislature and Administration provide funding of $201.5 million in 2004-05, $8.7 million in 2005-06, and $50.8 million in 2006-07

   LAO Comment: The LAO has raised several concerns regarding the amount and use of the proposed reappropriation. In general, the reappropriation does not conform to the expenditure plan provided by the Secretary of State and Administration. Key problems include:
   - Excessive authority sought in the reappropriation
   - Budget Change Proposals/Finance Letter analysis not provided
   - Additional detail on administrative costs not provided
   - Statewide database development would proceed without Legislative oversight

   As an alternative to approving the reappropriation, the LAO recommends the Legislature:
   - Limit the requested appropriation to match the spending plan

- Withhold action on $10 million of the request without the benefit of a Budget Change Proposal
- Reduce the budget for administrative expenses
- Add provisional language to provide for Legislative oversight of the statewide database

Staff Comment: The LAO has suggested provisional language to address their concerns. The following language would address some of the concerns identified above.

Provisions:
1. Funds shall be used consistent with the March 11, 2005 Help America Vote Act spending plan as approved by the Department of Finance. The amounts spent on each activity shall not exceed the following maximums:
   (a) County voting equipment grants … 195,000,000
   (b) voter registration cards …. 590,000
   (c) voting system review … 25,000
   (d) punch card replacement … 3,205,657
   (e) Disabilities grants … 2,357,711
2. Not withstanding any other provision of law, any funds not needed for an activity authorized in Provision 1 shall not be redirected to other activities and are not authorized for expenditure.
3. The Secretary of State shall forward to the Chairperson of the Joint Legislative Budget Committee copies of quarterly reports sent to the Department of Finance.
4. At the time of authorizing any reappropriation under this item, the Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee the amount and the designated activities of the funds.

(LEGISLATIVE OVERSIGHT OF DATABASE)
To add to reappropriation provision:
5. Funds designated in provision 1 (f) for the statewide database shall be authorized for expenditure by the Department of Finance not sooner than 30 days after notification in writing by the Department of Finance to the Chairperson of the Joint Legislative Budget Committee of its approval of a feasibility study report. The notification shall include a copy of the approved report, any conditions of the approval, and detailed information regarding how the funds designated in provision 1 (f) shall be used.
6. Not withstanding any other provision of law, the Secretary of State shall not enter into a contract for the development of a new statewide voter registration database prior to May 1, 2006. During 2005-06, the Secretary of State may contract for assistance in the development of any necessary procurement documents.

Staff Recommendations:
A. Approve the May Revision Finance Letter.

B. Adopt the LAO provisional language provided above, as amended to reflect under provision 1, approval of the statewide database for $1.6 million and Source Code Review for $1.2 million (add these items under as (f) and (g)).

VOTE:

3. Trailer Bill to eliminate the California Heritage Preservation Commission. The Administration proposes to eliminate the California Heritage Preservation Commission through the following trailer bill actions. This elimination is a part of the Governor's proposal to eliminate "nonessential" Boards, Commissions, and task forces:

Repeal Government Code Section 12231.

~~12231. (a) In carrying out the provisions of this article, the Secretary of State shall consult with and give consideration to the recommendations of the California Heritage Preservation Commission, which for such purpose shall serve in an advisory capacity to the Secretary of State.~~
~~(b) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

Amend Government Code Section 12232 is amended to read:

12232. The Secretary of State shall utilize the ~~California Heritage Preservation Commission and the~~ California State Library to advise, encourage, and coordinate the activities of the county historical records commissions, either designated or appointed by the county boards of supervisors pursuant to Section 26490. The chairman or his designate of each county historical records commission may attend an annual meeting with the ~~named state representatives~~*California State Library*, at state expense, to receive advice in the preservation of local government archives and public library collections of historical materials.

Staff Recommendation: Approve the May Revision trailer bill for repeal of the California Heritage Preservation Commission.

VOTE:

0985 California School Finance Authority

1. **Increased Federal Fund Expenditure Authority for Construction of Charter School Facilities.** The Administration requests that Item 0985-101-0890 be added in the amount of $19,475,000 to provide expenditure authority for new federal fund grant awards for the lease or construction of charter school facilities (Issue 560). The California School Finance Authority (CSFA) has secured a grant for 5 years beginning in the current federal fiscal year, therefore, it is proposed that two federal years of funding be appropriated in the budget year. One-half of the amount is proposed to be used for reimbursement of costs incurred for the 2004-05 fiscal year, and the remainder for facility costs for the 2005-06 fiscal year. The budget also proposes to match this grant with additional Proposition 98 Reversion Account Funds in the amount of $9.0 million (see State Department of Education May Revision letter, Item 6110-685, Issue 001 and related Non-Budget Act Item 6110-605-0001) to meet the annual need estimated at over $18.0 million for lease costs for charter schools receiving facility assistance in the current year pursuant to Chapter 892, Statutes of 2001.

   To implement this change, the following budget bill language would be added to Item 0985-101-0890.

   > *1. Of the amount appropriated in this Item, $9,725,000 shall be used to reimburse charter schools for facility costs incurred in 2004-05. The remainder shall be used to reimburse charter schools for facility costs anticipated in 2005-06. These funds shall only be available for reimbursing 2004-05 costs and 2005-6 costs if $9.0 million is made available as matching funds for charter facility lease costs through Item 6110-485 of this Act and trailer bill legislation is enacted to codify regulations consistent with this provision. No charter school receiving funds under the program authorized under this provision shall receive funding in excess of 75 percent of annual lease costs through this program or in combination with any other source of funding provided in this or any other act.*

   The Administration further requests that Item 0985-001-0890 be added in the amount of $225,000 for external contract consultants to provide state operations assistance for the administration of the federal charter school grant program.

   Staff Recommendation: Approve the May Revision Finance Letter.

   VOTE:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. Total proposed budget expenditures for the Franchise Tax Board are $699.6 million, of which $512.3 million is from the General Fund.

1. **Overview of General Fund Revenues in the Governor's May Revision.** This informational item will be presented by the Legislative Analyst's Office.

   The following figure shows the administration's estimate of the General Fund budget condition in 2004-05 and 2005-06 after taking account of the May Revision budget proposals.

Governor's May Revision General Fund Condition

(In Millions)

	2004-05	2005-06
Prior-year fund balance	$7,200	$6,714
Revenues and transfers	79,495	83,867
Deficit financing bond	2,012	—
Total resources available	$88,707	$90,581
Expenditures	$81,993	$88,525
Ending fund balance	$6,714	$2,056
Encumbrances	641	641
Reserve	**$6,073**	**$1,415**
2006-07 amnesty-related revenue reductions		($900)
Remaining reserve		($515)

Detail may not total due to rounding.

2004-05. As shown in Figure 2, the prior-year balance is estimated at $7.2 billion, which is more than double the $3.5 billion balance estimated in January. The improvement is almost entirely due to higher-than-expected cash payments directly and indirectly associated with the state's tax amnesty program that concluded in early April. As discussed in the box, under the state's current accounting system, these current-year cash collections are attributed back to the tax years prior to 2003 that were covered by the amnesty program. Also, of this May Revision increase all but $180 million will be offset by lower audit collections and higher refunds in 2004-05 through 2006-07.

In other developments, revenues in the current year are estimated to total $79.5 billion, or about $2.5 billion less than the $82 billion in expenditures. Most of the difference is covered by the proceeds of last year's sale of $2 billion in deficit-financing bonds. After accounting for year-end encumbrances, the current year is projected to conclude with a reserve of $6.1 billion.

2005-06. In the budget year, the administration projects revenues of $83.9 billion, while expenditures are proposed to total $88.5 billion, thus generating an operating shortfall (revenues minus expenditures) of $4.6 billion during the year. This draws the current-year reserve of $6.1 billion down to $1.4 billion by the close of the budget year. The administration notes, however, that $900 million of this reserve will be needed to fund the revenue reductions anticipated in 2006-07 attributable to amnesty-related refunds and auditing changes (see box). This leaves an uncommitted reserve of $515 million, which is about the same as the level proposed in January.

ASSESSMENT:
Amnesty-Related Estimates Reasonable. The May Revision's estimates of the direct and indirect impacts of amnesty-related payments and refunds are reasonable. It is our understanding that the protective claims payments (which account for $3.4 billion of the total payments) are concentrated among large companies that are routinely audited by the Franchise Tax Board. Payments associated with these audits were assumed to occur over the next several years. Thus, their acceleration implies that future audit-related collections will be less than previously forecast. In the case where companies are successful in appealing state audit claims, the protective claims payments will need to be refunded, which also reduces net revenues to the state, and the forecast incorporates this.

Current-Year Revenue Estimate Overstated. While we agree that recent favorable payment trends portend higher revenues in both the current year and budget year, the administration has seriously overstated the 2004-05 year-end accrual adjustments that will be made to the personal income tax. Using the administration's own estimates of personal income tax payments and refunds during the second half of calendar-year 2005 (and which are accrued back to the current year), we estimate that the overestimate is approximately $625 million. After accounting for some offsetting gains from other revenue sources, we therefore believe that revenues will be $600 million below the May Revision estimate in 2004-05. With respect to the budget year, however, our forecast of revenues is similar to the administration's revised estimate.

How Much of Revenue Gain Is Ongoing? The administration has asserted that virtually all of the roughly $4 billion revenue increase is one-time relative to its January estimate, and thus will not help the state's structural budget shortfall. The administration has not provided its updated longer-term fiscal estimates, and thus we cannot comment on this assertion directly. However, relative to our own February forecast (which was above the administration's January estimate by $1.4 billion in the current year and $0.8 billion in 2005-06), we estimate that the ongoing increase is about $0.5 billion per year, suggesting that a significant portion of the increase is ongoing relative to our estimates.

Staff Comment: In accordance with Chapter 226, Statutes of 2004 (SB 1100, Committee on Budget and Fiscal Review) the Franchise Tax Board carried out a comprehensive tax amnesty program between February 1 and March 30, 2005. The tax amnesty provided an opportunity for individuals to pay past tax debts and the associated interest. All penalties were waived under the amnesty program. Accompanying the amnesty program was a broad public awareness campaign (*It was probably just and oversight…*).

Those who were eligible for amnesty but opted not to participate now face significant penalties. Penalties include a new 50 percent penalty on accrued interest and an increased accuracy-related penalty for filers who understate their amount due. Expected gross revenues from tax amnesty was $555 million from both individual and corporation income tax filers.

Staff Recommendation: Request that the Legislative Analyst's Office, Franchise Tax Board, and Department of Finance comment on
(1) the success of the amnesty program and
(2) the current year revenue estimate discrepancy.

2. Finance Letters Proposed for Vote-Only.

A. PHASE III OCCUPANCY COST ADJUSTMENT. The Administration requests that the Franchise Tax Board's budget be augmented to reflect updated estimates of the moving costs associated with occupying the Franchise Tax Board's (Board) Phase III Office Complex on Butterfield Way. Adjustments are as follows:

- Item 1730 001 0001: Augmentation of $3,371,000
- Item 1730 001 0044: Augmentation of $32,000
- Item 1730 001 0064: Augmentation of $60,000
- Item 1730 001 0242: Augmentation of $96,000
- Item 1730 501 0995: Augmentation of $295,000

The FTB had requested in an April Finance Letter that budget year funding for Phase III be augmented by $7.6 million to facilitate the final stages of staff relocation and operations to a new state office building and to renovate and occupy existing office buildings at the Butterfield Campus in Sacramento. The $3.7 million reduction relative to the April Finance Letter request is largely attributable to delays in the construction schedule, which in turn led to occupancy delays.

B. PHASE III OFFICE COMPLEX DEBT-SERVICE PAYMENTS. The Administration requests that Item 1730-001-0001 be increased by $1,927,000 to account for debt-service payments the FTB will make to the Department of General Services for the bonds that were issued to pay for construction of the Phase III Office Complex.

C. CALIFORNIA CHILD SUPPORT AUTOMATION SYSTEM (CCSAS) CARRYOVER ADJUSTMENT. The Administration requests that Item 1730-001-0001 be amended by a net of $673,000 for CCSAS related activities. The requested adjustment consists of the following elements:

- A reduction of $1,158,000 General Fund to reflect the availability of this amount of carryover funding from 2004-05. The availability of this carryover amount is primarily attributable to project savings.

- An increase of $1,831,000 in reimbursement authority to reflect a loss of federal funding provided by the Department of Child Support Services from 2004-05 due to delay of current-year project deliverables. These delays are expected to have no impact on the overall project timeline.

D. LEASE REVENUE PAYMENT ADJUSTMENT PER CONTROL SECTION 4.30. The Administration requests that Item 1730-002-0001 be decreased by $99,000 and Reimbursements be decreased by $35,000 to reflect Control Section 4.30 (Lease Revenue Payment Adjustments) changes made in the fall.

E. LEASE REVENUE PAYMENT ADJUSTMENT. The Administration requests that Item 1730-002-0001 be decreased by $30,000 and reimbursements increased by $30,000 for lease revenue payments in accordance with Control Section 4.30.

Staff Recommendation: Approve the May Revision Finance Letter issues A through E above.

VOTE:

3. **Solar or Wind Energy Systems Tax Credit.** The existing solar and wind energy tax credit provides a 7.5 percent tax credit, after deducting the value of any financial incentives, for taxpayers who purchase solar or wind energy systems for installation and electrical generation in California. A primary purpose for this credit is to encourage taxpayers to utilize alternative energy sources as opposed to traditional gas and electric utilities. Additionally, for property tax lien dates from the 1999-2000 to 2004-05 fiscal year, the term "newly constructed" as used in the California Constitution does not include the construction or addition of any active solar energy system. The credit will expire on January 1, 2006.

Senate Bill 1017 (Campbell, 2005-06) would extend the operative date of this credit to January 1, 2017, and extend the operative date of the solar property tax exclusion to June 30, 2017. These provisions would provide an expanded opportunity for realizing the benefits of solar and wind energy systems. Proposed trailer bill is shown in the appendix.

According to the Franchise Tax Board, estimated revenue loss is less than $250,000 in the budget year, and will grow to $2 million in 2006-07, and $4 million in 2007-08. These estimates are built on a static model of taxpayer response, and no growth factor is included.

Staff Recommendation: Adopt the provisions of SB 1017 as trailer bill.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security. Total proposed budget expenditures for the Department of General Services are $970.2 million.

1. Issues Proposed for Vote Only:

A. REPAYMENT OF ENERGY EFFICIENCY REVENUE BONDS. The Administration requests that Item 1760-001-0666 be revised to include Budget Bill language (below), requiring DGS to transfer $1,186,000 to the General Fund on an annual basis for 10 years beginning in 2005-06. Chapter 7, Statutes of 2004 (AB 156), provided deficiency funding for energy efficiency projects in state buildings due to the inability to issue energy efficiency revenue bonds pursuant to Government Code Sections 15814.1015814.27.

This funding was used to repay loans from the Pooled Money Investment Account (PMIA) that provided interim financing for these projects. These loans were made with the expectation that they would be repaid by the proceeds from the energy efficiency revenue bonds. Since these bonds could not be sold and these projects are completed, an alternative funding source was needed to repay these loans.

The transfer from the Department's budget to the General Fund represents the amount needed to repay the General Fund over a 10 year period plus five percent interest. These funds are from the utility savings that are being generated from the energy efficiency projects.

X. Notwithstanding any other provision of law, due to the inability to issue energy efficiency revenue bonds pursuant to Government Code Sections 15814.1015814.27, in order to repay the General Fund for the cost of completing energy efficiency projects on specified buildings, the Department of General Services shall recover an amount sufficient to repay with costs associated with completed energy efficiency projects within 10 fiscal years plus 5% interest, through utility rates charged to tenants and on August 1 of each fiscal year beginning with 2005-06, the Department of General Services shall transfer that amount to the General Fund. Once the General Fund has been fully repaid, the Department of General Services shall adjust utility rates for all tenants to accurately reflect the current rates.

B. CAPITOL SECURITY SERVICES. The Administration requests that Item 1760-001-0666 be increased by $429,000 to fund increased security costs at the State Capitol building.

C. STRUCTURAL ASSESSMENT OF THE CAPITOL BUILDING. This request would augment the DGS budget by $1,000,000 General Fund to enable the DGS to conduct an assessment of structural repair needs for the State Capitol Building.

D. OFFICE OF PUBLIC SCHOOL CONSTRUCTION (OPSC): ADDITIONAL STAFFING FOR SCHOOL FACILITIES PROGRAM WORKLOAD AND FOR WILLIAMS SETTLEMENT EMERGENCY REPAIR PROGRAM WORKLOAD. The Administration requests four positions (three permanent and one two-year limited term) and $318,000 ($79,000 General Fund) to provide resources to continue management of the School Facility Program (Leroy F. Greene School Facilities Act of 1998), and to address an appropriate level of resources for the implementation of the *Williams vs. State of California* case. During 2004-05 budget development, the OPSC received 12 positions for these activities, with the understanding that additional positions would be sought as workload needs were refined.

E. DEPARTMENT OF GENERAL SERVICES (TELECOMMUNICATIONS DIVISION) APPROPRIATION**.** The Administration requests that language be added to Item 1760-001-0666 to authorize the Director of Finance to increase this item by up to $10,673,000 and associated positions, for the Office of Network Services within the Telecommunications Division of the Department of General Services, for any period prior to the Governor's Reorganization plan, or similar legislation, intended to create the Department of Technology Services, becoming law.

X. The Director of Finance is authorized to increase this item by up to $10,673,000 and associated positions for the Office of Network Services within the Telecommunications Division, for any period prior to the Governor's Reorganization plan, or similar legislation, intended to create the Department of Technology Services, becoming la w.

F. LEASE-REVENUE BOND DEBT SERVICE ADJUSTMENTS. The Administration requests the following changes associated with Lease Revenue Bond debt service adjustments that were reflected in a set aside Item in the January 10 Budget, related to Control Section 4.30. Provision 1 of Item 1760-002-0003 and Item 1760-002-0666, would also be amended to reflect the following changes:

- Decrease Item 1760-002-0666 by $1,306,000.
- Increase Item 1760-003-0666 by $9,000.
- Decrease Item 1760-002-0003 by $6,000.
- Increase reimbursements to Item 1760-001-0666 by $13,073,000.

G. UPDATED DEBT SERVICE PAYMENT SCHEDULE. The Administration requests the following changes to reflect changes in base rental payments, fees, and insurance costs, as well as a decrease to reimbursements due to an updated debt service payment schedule for a lease revenue funded project:

- Increase Item 1760-002-0003 by $4,000.
- Increase Item 1760-002-0666 by $4,987,000.
- Decrease reimbursements to Item 1760-001-0666 by $14,471,000.

H. LOWERING THE STATE'S COST FOR PRESCRIPTION DRUGS. On May 11, the Subcommittee adopted provisional language related to information sharing on drug purchasing activities. Recently, the University of California has requested a clarification related to the information that may be shared. That clarification is as follows:

It is the intent of the Legislature that the Department of General Services, University of California, and the Public Employees Retirement System share information on a regular basis with regards to each agency's drug purchasing activities. The sharing of information shall include, but is not limited to, prices paid for the same or similar drugs and information regarding drug effectiveness *unless such sharing is prohibited by law or contract*. It is the intent of the Legislature that the agencies meet, share information, and identify and implement joint cost savings activities that are mutually beneficial to the participating agencies. By January 10, 2006, and annually thereafter, the Department of General Services shall report to the Chairperson of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature on the collaboration activities that the Department of General Services, University of California, and the Public Employees Retirement System conducted in the last 12 months and the savings attributable to joint drug cost savings from those activities. It is not the intent of the Legislature for the Department of General Services to disclose information which may adversely affect potential drug procurements conducted by the participating agencies.

Staff Recommendation: Approve issues A through H above.

VOTE:

2. Special Education Alternative Dispute Resolution Program. The Administration requests that Item 1760-001-0666 be increased by $9,254,000 and 65.7 Personnel Years to provide resources which will allow the Department of General Services (DGS) to take over the Special Education Alternative Dispute Resolution Program from the McGeorge School of Law. The McGeorge School of Law provides mediation conferences and due process hearings for parents of students with disabilities.

Staff Comment: The basis for this request stems from a Governor's California Performance Review proposal and a recent State Personnel Board decision that cited state practice to not contract with private entities to perform work that the state has historically and customarily performed and can perform adequately and competently.

Notwithstanding the SPB decision, it is not clear that the McGeorge School of Law is not already the more economical and appropriate provider. The CPR proposal compared different periods of time and did not account for the McGeorge School's record of keeping cases from going to court. Having the Office of Administrative Hearings handle cases may result in more cases going to higher courts—at greater state cost. Additional information is required to validate the comparison and consideration of the SPB decision.

Staff Recommendation: Reject the May Revision Finance Letter issue.

VOTE:

3. **Office of State Publishing Reduction.** The Administration proposes a reduction of $6.2 million and 120 positions at DGS' Office of State Publishing (OSP). This proposed reduction follows declining state agency printing contracts and a statewide shift to more digital technology printing and Internet publishing. The OSP has incurred $14.3 million in losses over the last ten years, including a $5.5 million loss in 2003-04 (a 27 percent revenue decrease). The department explains that the OSP's broad range of products preclude it from tailoring services and force it to charge non-competitive rates. These rates naturally drive state agencies to use outside vendors. Under this proposal, "core" OSP services to the Legislature and other state agency clients would be preserved.

In a related proposal, the Administration proposes to extend, for one year, the requirement that state agencies also request a bid from OSP when seeking services that the OSP currently provides. The Subcommittee adopted this language (for one year) during last year's budget hearings.

> SECTION 1. Section 14612.2 of the Government Code is amended to read:
>
> 14612.2. (a) Notwithstanding Chapter 7 (commencing with Section14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Publishing for its printing needs and the Office of State Publishing may offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States government. When soliciting bids for printing services from the private sector, all state agencies shall also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than five thousand dollars ($5,000).
>
> (b) This section shall remain operative only until the effective date of the Budget Act of ~~2005~~ *2006* or July 1, ~~2005~~ *2006*, whichever is later, and as of January 1, ~~2006~~ *2007*, is repealed, unless a later enacted statute that is enacted before January 1, ~~2006~~ *2007*, deletes or extends the dates on which it becomes inoperative and is repealed.

The Subcommittee first heard this issue on April 27 and left it open.

Staff Comment: No job loss is expected with this reduction. One hundred and eighteen of one hundred and twenty affected employees have already found other positions or retired and the remaining two are expected to resolve their status in the coming weeks.

In analyzing this proposal, it was learned that an operating expense reduction that would normally accompany a staff reduction had been omitted from the proposal. Specifically, the general expense category did not show a corresponding reduction associated with the positions. To reflect this reduction fully and accurately, an additional reduction of $60,000 should be included.

Staff Recommendations:

A. Approve the budget change proposal with an amendment to reflect an additional reduction of $60,000 in general expense. (Reduce Item 1760-001-0666 by $60,000)

B. Approve the proposed trailer bill language shown above.

VOTE:

4. **California State Travel Portal.** The Subcommittee on May 11 adopted a proposal to improve the timing and manner in which the state purchases airline tickets. The Subcommittee action was to authorize the DGS to develop an information portal for purchasing in-state tickets, require ticket purchases for non-emergency flights no less than two weeks before the flight, and direct the DGS to pursue out-of-state ticket purchasing efficiencies. Subsequent information provided by the department suggests that the proposed travel portal would be better focused on facilitating travel by the state's primary in-state carrier (Southwest Airlines), which also flies a much lower share of out-of-state routes. DGS would still be directed to develop opportunities for ticket purchase efficiencies with all other carriers. Working with the DGS, the LAO, and DOF, the following budget bill language has been developed:

X. The Director of General Services shall, by June 30, 2006, establish a California State Travel portal for travel bookings. Up to $250,000 and 1.0 position from the amount appropriated in this item may be used for this purpose, which may include staff support, travel, and training costs associated with the establishment of the portal. The Director of General Services is authorized to charge a fee to clients using the State travel contracts sufficient to recover the costs of its establishment, operations, and maintenance, as well as any associated costs, such as training.

(a) All departments shall utilize the California State Travel Portal for their travel bookings and shall revise departmental airline ticket booking policies to facilitate purchase of non-emergency tickets at least two weeks before the flight date.

(b) The Director of General Services shall study the feasibility of expanding the California State Travel Portal to other airlines and other alternative approaches to reduce travel costs and report to the Legislature no later than June 30, 2006. This study shall be completed within existing resources as provided in this appropriation.

Staff Recommendation: Approve the budget bill language.

VOTE:

8860 Department of Finance

By statute, the Director of Finance serves as the Governor's chief fiscal policy advisor with emphasis on the financial integrity of the State and maintenance of a fiscally sound and responsible Administration. The objectives of the Department of Finance are to prepare, present, and support the annual financial plan for the State; to assure responsible and responsive State resource allocation within resources available; to foster efficient and effective State structure, processes, programs, and performance; and to ensure integrity in State fiscal databases and systems.

1. REDIRECTION FOR GOVERNOR'S WEB-BASED BUDGET

Description: The Governor's budget, as amended in the May Revise, requests permanent funding to provide support for the workload associated with the change in publication format for the Governor's Budget and related budget documents from print to a web-based presentation. This request would provide 1.8 Personnel Years (PYs) and $484,000 General Fund for the evaluation, continuing development, and enhancement of the Governor's Budget Presentation System. In addition, the Department of Finance (DOF) requests authority to continue the contract with a web development firm through the end of 2005-06 and increase the contract by $250,000.

Background: In the current year, the Legislature authorized, through Control Section 4.45, a $750,000 transfer from the Department of General Services to the DOF for costs associated with producing the Governor's budget through electronic or other media and printed hard copies as necessary.

The 2005 Governor's budget presentation is the initial application of web-based presentation. Subsequent to that presentation, the DOF surveyed various entities that utilized the web-based budget on how to improve and modify the 2005 presentation.

The following provisional language is requested to implement the web-based presentation and provide sufficient print copies for distribution.

From the funds appropriated in Schedule 3 of this item for the purpose of evaluating and continuing development and enhancement of the Governor's Budget Presentation System (GBPS) the following provisions apply:

(a) From time to time, but no later than December 1 of each year, the Department of Finance shall update the Legislature on anticipated changes to the GBPS. In addition, the Department of Finance shall (1) no later than the approximate same time the Governor's Budget is formally presented in electronic or any other web-based form, provide printed and bound hard copies of the Governor's Budget and Governor's Budget Summary as follows: to the Legislative Analyst Office – 45 copies, the Office of the Legislative Counsel – 6 copies, offices of the members of the Legislature – 120 copies, and the fiscal committees of the Legislature – 60 copies, and (2) no later than 4 weeks after the Governor's Budget is formally presented in electronic or any other web-based form, 135 printed and bound hard copies of the Governor's Budget and Governor's Budget Summary shall be provided as follows: 2 copies to the State Library, to ensure that the State Librarian maintain at least one public copy and one for the permanent research collections, and 133 copies: one copy to each depository public library in the state. Additional copies, either bound or unbound, will be available for purchase by the public based on the cost of producing the documents requested.

(b) Notwithstanding any other provision of law, the Department of Finance may amend its existing contract with the web development firm to augment and continue consulting

services through 2005-06 for the purpose of providing continuity of services and to avoid delays in producing the Governor's Budget.

Recommendation: Approve the Administration's request, augmented by $10,000 General Fund to ensure bound and hard copies are printed as specified, and adopt the budget bill language above.

VOTE:

2. BUDGET INFORMATION SYSTEM

Description: The Governor's budget, as amended in the May Revise, requests $1,749,000 (General Fund) and 1.9 personnel years to provide support for the workload associated with continued development of a Budget Information System (BIS). The purpose of the BIS is to streamline budget processes and develop a year-round integrated budget system to replace the multiple legacy budget systems.

In order to ensure compatibility between the BIS and any other departmental or statewide management systems that may be developed, the Department of Finance (DOF) would like to develop a universal "chart of accounts" to be used by all such systems. This requested change will allow for the development of a chart of accounts and extend the timeframe from 19 months to 31 months. Second and third year funding will be contingent upon approval of a feasibility study report (FSR).

Background: The State currently lacks a single integrated system for development of the annual budget and for other financial functions, such as accounting and procurement. Existing systems are more than 25 years old and requires significant staff support to maintain. These systems, used today to produce the Governor's Budget and other key budget documents, were first developed in the 1970s to capture the incremental changes to the budget.

Staff Comment: Without an approved FSR, this is a "cart before the horse" proposal. The FSR will validate the IT components which are the central component of the BIS proposal. Without that information, the Legislature should not approve this funding request.

Recommendation: Approve the Finance Letter with provisional language stipulating that expenditure of funds is contingent upon submission of an approved FSR to the Legislature and a 45-day review period.

VOTE:

3. TRAILER BILL LANGUAGE FOR EXECUTIVE COUNCIL FOR BUSINESS MANAGEMENT FUNCTIONS.

Description: The Administration proposes to add trailer bill that would establish the Executive Council for Business Management Functions. Members of the council would meet at least quarterly and include the Director of Finance (chair), State Treasurer, State Controller, Director of the Department of General Services, Director of the Department of Personnel Administration, State's Chief Information Officer, and several cabinet secretaries. The Council would provide coordinated leadership in the planning and development of systems to be used by state agencies to support business management functions. A key activity would involve establishing an enterprise architecture for business management functions by establishing a chart of accounts.

Trailer bill to implement this proposal is attached.

Staff Comment: It is not clear that existing state staff and working groups could not accomplish the same objectives as this proposal. Similar large-scale information technology projects, such as the State Controller's Human Resource Management System (21st Century Project). have been developed without the benefit of an executive council.

Recommendation: Reject the Finance Letter issue and associated trailer bill.

VOTE:

4. COORDINATE IN-HOUSE BOND ACTIVITIES

Description: The Governor's budget requests of 3.0 positions (2.9 personnel years) and an increase in reimbursement authority ($500,000) to fund retainer contracts with financial advisors and bond counsel. In addition, the Department of Finance (DOF) would consolidate bond issuance activities.

Background: Until a few years ago, the bond issuance was predictable and consisted entirely of General obligation and lease revenue bonds. However, there has been a dramatic increase in the number and types of bond issuances in the last few years. In addition, the DOF has become involved in a number of atypical types of bond issuances, such as Pension Obligation Bonds, Economic Recovery Bonds, Fiscal Recovery Bonds, Tobacco Bonds, Tribal Gaming Bonds, and Grant Anticipation Revenue Vehicles (GARVEE) bonds.

As the workload and types of bond issuances have developed, 3 different units at DOF have been assigned the responsibility of various functions related to bond issuance, such as overseeing, tracking, providing analytic support, coordination with agencies/departments and document preparation. The fragmentation of the workload related to bonds has created difficulties to ensure due diligence is performed for each bond issue. Each unit has been tasked with developing a relationship with the State Treasurer's Office, bond counsel, and financial advisors. Since many of the units had little awareness that other units might have contracts with these vendors for similar purposes, no coordination of contracts transpired and inconsistent contract pricing may be occurring. In addition, as service vendors are not on retainer, either the State Treasurer's Office or DOF must locate and contract with vendors for each issue, causing delays in the delivery of a bond issue. At present, DOF estimates total time devoted to all bond activities is approximately 6,600 staff hours or approximately 3.7 positions.

Assuming that the consolidation of activities would result in some efficiencies and reduced workload that would be partially offset by refunding, monitoring, and departmental training activities, DOF requests the addition of 3.0 positions and the retainment of service vendors (such as financial advisors and bond counsel), supported through bond proceeds.

Recommendation: Staff recommends approval of the request, but that the positions are designated as two-year limited term

VOTE:

8885 Commission on State Mandates

The Commission on State Mandates (CSM) is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. Total proposed budget expenditures for the Commission on State Mandates are $1.6 million, all of which is state General Fund.

1. **Mandate Reimbursement Process.** At the May 11 Subcommittee hearing, the Subcommittee considered staff recommendations related to reconsidering the mandate reimbursement process mandate and clarifying a provision of law relating to the authority for the State Controller to audit certain mandates. The issue was left open based on a statute of limitations question related to the latter issue.

   The staff comments were as follows:

   The Commission on State Mandates should reconsider the mandate process reimbursement mandate. In that reconsideration, the Commission should specifically address the matter of developing a simpler system for review of test claims and providing mandate reimbursements. A reconsideration could be accomplished with the following language:

   > *Notwithstanding any other provision of law, the Commission on State Mandates shall reconsider its test claim decision regarding the Mandate Reimbursement Process program (CSM-4204) enacted by Chapter 486 of the Statutes of 1975 and Chapter 1459, Statutes of 1984, to determine whether the statutes are a reimbursable mandate under Section 6 of Article XIII B of the California Constitution and in light of federal and state statutes enacted and federal and state court decisions rendered since the test claim statute was enacted. If a new test claim is filed on Chapter 890, Statutes of 2004,[1] the Commission shall, if practicable, hear and determine the new test claim at the same time as this reconsideration.*
   >
   > *The commission, if necessary, shall revise its parameters and guidelines on the Mandate Reimbursement Process program (CSM-4485) to be consistent with this reconsideration and the Controller shall revise the appropriate claiming instructions to be consistent with this act. Any changes by the commission to the original statement of decision (CSM-4204) shall be deemed effective July 1, 2006.*

   In the event that a mandate is determined, it is important for claimants to know exactly what are allowable costs. In preparing the revised parameters and guidelines, the Commission should specify in simple terms using unit cost measures, exactly what allowable costs are. This determination is commonly referred to as a "reasonable reimbursement methodology."

[1] See AB 2856-Laird.

Staff Recommendations: Direct staff to work with the Legislative Analyst to draft budget trailer bill legislation that will:

A. Direct the Commission to reconsider the mandate reimbursement process mandate in accordance with the language provided above,

A. Direct the Commission to develop a simple and reasonable reimbursement methodology for the mandate reimbursement process mandate based on unit costs (if the Commission determines that a mandate exists), and

VOTE:

8910 Office of Administrative Law

The Office of Administrative Law is responsible for reviewing administrative regulations proposed by over 200 State regulatory agencies for compliance with standards set forth in California's Administrative Procedures Act, transmitting these regulations to the Secretary of State, and for publishing regulations in the California Code of Regulations. Budget Year funding for the Office of Administrative Law totals $2.5 million, $2.2 million of which is General Fund.

1. **Enforcement of Underground Regulations.** The Administration requests that Item 8910-001-0001 be increased by $224,000, to provide funding for the Office of Administrative Law to issue determinations as to whether particular state rules, guidelines, and other documents, are in fact, regulations subject to the regulatory review process and to enforce provisions of the Government Code that restrict state agencies from issuing, utilizing or enforcing "underground regulations".

   Staff Comment: This Finance Letter request is similar to one presented in last year's May Revise in that justifies workload by citing Government Code Section 11340.5 (prohibits state agencies from employing rules that do not comply with the Administrative Procedures Act). That request was rejected by the Subcommittee, primarily for reasons related to workload authorization.

   The LAO has raised concerns over the projected workload associated with this proposal and recommended it be denied. An alternative to denial of this request would be to fund the request for one staff counsel position for two years. This two-year limit will offer an opportunity to review workload again, should the OAL desire to extend the position or make other workload adjustments.

   Staff Recommendation: Amend the May Revision Finance Letter to provide funding for one staff counsel position on a two-year limited term basis.

   VOTE:

9100 Tax Relief

California offers a variety of tax relief programs by appropriating funds through a reduction in rates or nonrefundable tax credits. The state also provides the following tax relief through the appropriation of funds for payments to individuals or reimbursement of local agencies. Tax relief proposed in 2005-06 totals $539.4 million, all of which is General Fund.

1. **County Auditor Redevelopment Tax Report Mandate.** On April 27, 2005, the Subcommittee adopted an action to repeal the County Auditor Redevelopment Tax Report mandate.

During past budget enactment cycles, actions by the Senate subsequent to Subcommittee hearings have sometimes reversed the Subcommittee’s action and prevented a mandate from actually being repealed. In these cases, unless that subsequent action provided funding, if the mandate is not shown as suspended in the budget bill, it must be paid. Suspending a mandate in the budget bill (while still proceeding with the proposed repeal in budget trailer bill) will prevent the mandate from being inadvertently funded.

Staff Recommendation: For the purposes of display in Item 9100-295-0001, suspend the County Auditor Redevelopment Tax Report mandate. (The earlier “repeal” action adopted by the Subcommittee will follow the budget trailer bill process.)

VOTE:

9210 Local Government Financing

Local governments receive a variety of subventions from the state for designated purposes such as health, welfare, and public safety programs. The state provides other assistance to local governments, primarily counties, through other direct programs contained in other items in the budget. For example, Health and Human Services has numerous programs where the state and counties jointly provide funding for services. State funding is also included in Public Safety for such issues as local crime labs and suppression of high intensity drug trafficking areas. Local Government Financing proposed in 2005-06 totals $157.4 million, all of which is General Fund.

1. **Property Tax Administration Grant Reduction.** The Administration proposes to amend the $5.7 million reduction to the Property Tax Administration Grant Program proposed in the Governor's Budget by offsetting that reduction by a net of $2.5 million. This action would withdraw the previously proposed 9.5 percent reduction across-the-board reduction in Property Tax Administration Grant monies.

   Counties where grant funds result in increased property tax revenues to offset the state's Proposition 98 General Fund costs will be funded at the statutory level. Two counties that do not generate offsetting Proposition 98 savings (Marin and San Mateo) will be decreased by a total of $3,010,000 to reflect the elimination of grant monies. Since all the school districts and community college districts in these counties receive sufficient property taxes to fully fund their basic apportionments, the property tax revenues they would generate with grant monies would not offset the state's Proposition 98 General Fund obligation. Five counties that have not submitted applications since inception of the program recently for the grant funds (Alpine, Inyo, Mariposa, Sierra, and Trinity) will incur a total reduction of $182,000.

   Staff Recommendation: Approve the May Revision Finance Letter issue for Property Tax Administration Grants.

   VOTE:

2. **Expedited Vehicle License Fee "Gap" Repayment.** The Administration proposes to expedite repayment of $593.4 million to cities and counties for the Vehicle License Fee (VLF) revenues not received in 2003-04 due to suspension of the VLF offset. The full VLF "gap" amount of $1,186,830,000 is the shortfall in the VLF payments to localities for registration renewals and new registrations with due dates between July 1 and October 1, 2003.

   The Department of Finance requests the following budget bill language to implement that change:

   9210-106-0001 – For transfer by the Controller…………………... 593,415,000
   Provisions:
   1. For transfer by the State Controller to the Gap Repayment Fund in accordance with Revenue and Taxation Code Section 10754.11, for repayment of the Vehicle License Fee gap loan amounts owed to cities, counties and cities and counties.

   Staff Comment: Revenue and Taxation Code 10754.11 does not appear to allow for a partial repayment and no trailer bill has been provided. Current statute requires that the SCO transfer the gap repayment amount on August 15, 2006, or alternatively, transfer the full amount earlier, if authorized by the Legislature.

Staff Recommendation:
DISCUSSION: Request the Department of Finance report on the need for notwithstanding budget bill language to implement this transfer.

ACTION: Approve the May Revision Finance Letter issue.

VOTE:

3. **Restore Small/Rural Sheriffs' Grants.** The Administration proposes to restore $18.5 million in funding for 37 small and rural counties' law enforcement activities. The 2005-06 Governor's Budget proposed to eliminate these grants, and to delete the applicable Government Code Section, which makes the appropriation.

   To conform to the requested restoration, the Department of Finance requests that trailer bill language, which would delete Government Code Section 30070, be rescinded.

   Staff Recommendation. Approve the May Revision Finance Letter issue.

   VOTE:

4. **Mandate: Open meetings.** The Administration proposes to restructure the Open Meetings mandate and provide $2 million in 2005-06 funding, approximately $13 million less than current year funding. The trailer bill needed to implement those changes is attached.

   LAO Comment: The LAO recommends two alternatives to adopting the Administration's proposal. First, the Open Meetings mandate could be made optional and a state-recommended "best practice." This option would eliminate all costs in the budget year. The other alternative is to fully fund the mandate at the full $16 million.

   Staff Comment: At the May 11 hearing, the Department of Finance provided final trailer bill that would implement the cost reduction by narrowing the scope of the mandate, in particular printing costs and postage. Under the DOF proposal, locals would be reimbursed for copying costs at the state rate of 20 cents per page.

   Staff Recommendation: Adopt the Governor's Budget proposal and associated trailer bill.

   VOTE:

9620 Payment of Interest on General Fund Loans

The Administration requests that Item 9620-002-0001 be reduced by $1.508 million to provide funding for the interest on General Fund budgetary loans. The 2005-06 Governor’s Budget anticipated that $11.325 million would be needed to repay interest on 22 special fund loans in 2005-06. Based on the most recent loan repayment data, it is now estimated that $9.817 million will be needed to repay interest and on 19 special fund loans in 2005-06.

Staff Comment: There may be updated information forthcoming on loan repayment costs that would affect the total costs. Consequently, this issue should be a conference item.

Staff Recommendation: Approve the May Revision Finance Letter at $1 million.

VOTE:

9840 Augmentation for Contingencies and Emergencies

This budget control section provides the mechanism to augment budgets during the budget year when unanticipated expenses arise, i.e. "deficiencies." During 2004-05 budget development, new deficiency funding processes were established to provide a limited amount of designated funding for deficiencies. The amount and requirements for use of this funding was specified in Item 9840. If a department or agency incurred an expense occurred that did not meet the criteria of Item 9840, the department or agency was forced to seek a supplemental appropriation through the normal policy bill process.

1. **Requirements for Supplemental Appropriations Bills**. Recently, concerns have been raised by staff regarding the lack of clear requirements for the supplemental appropriations process. A solution was recommended by requiring supplemental appropriation requests to essentially follow the same guidelines as those proscribed in Item 9840. Key changes to the language would stipulate that:

   - Supplemental appropriation request notification be provided to the Department of Finance
   - No prior year costs, new programs, or capital outlay could be funded by a supplemental appropriation bill
   - Under certain circumstances, a share of the total appropriation item can be exceeded.

   Budget bill language to implement these changes is attached.

   Staff Recommendation: Approve the budget bill changes.

   VOTE:

Trailer Bill for Various Capital Outlay Projects

The Administration requests that trailer bill language be adopted that would: (1) clarify existing State Public Works Board (PWB) authority to issue bonds for any phase of a lease-revenue bond funded project that is appropriated by the Legislature, and (2) clarify that capitalized interest could be included in bond sales for PWB authorized capital outlay project prior to, during and for a period of six months after construction of the public building, facility, or equipment.

During the 2004-05 Spring PWB Bond Sales, the Attorney General's staff concluded that (1) the appropriations for the projects did not specifically authorize the PWB to issue bonds for all phases, specifically design and equipment phases, of certain University of California capital outlay projects, even though the Budget Act contained funding and clearly intended these phases to be funded from lease-revenue bonds, and (2) the authorizing language did not permit the PWB to capitalize interest beyond the completion of construction. This trailer bill language would clarify that bonds could be issued for any phase of any lease-revenue bond funded project that is appropriated after June 30, 2001. In addition, it would clarify the cutoff point for charging capitalized interest for a lease-revenue bond funded project.

The proposed trailer bill is attached.

Staff Recommendation: Approve the May Revision Finance Letter and associated trailer bill.

VOTE:

Budget Control Sections for Discussion

Control Section 4.10

The Governor's Budget includes unallocated reductions totaling $150 million General Fund. Departments will have the flexibility to use lay-offs, hiring freezes, procurement reductions, or other administrative means to achieve their designated level of savings. The Administration believes that that these reductions will not reduce revenues or affect emergency services.

Staff Comment: Given the uncertainty over how the reductions will be applied, the Legislature should be appropriately informed of the reductions and have the opportunity to review or otherwise respond to the reductions. Accordingly, the following language is recommended:

> *The Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house by December 10, 2005, on the reductions made pursuant to the unallocated reductions included in the 2005-06 Budget Act. The report shall include: the specific reductions, by department, agency, and program; an indication of whether the reduction is one-time or ongoing; the programmatic effects; the number and description of positions affected; and other descriptive information for each reduction necessary to fully disclose the impact of the unallocated reduction.*

Staff Recommendation: Adopt the proposed budget bill language above.

VOTE:

Control Section 8.81

The Administration has proposed a new Control Section 8.81 to appropriate $1.25 million General Fund to map the state's enterprise-wide business application development efforts. The following budget bill language is recommended:

> *SEC. 8.81. Notwithstanding any other provision of law, one million two hundred and fifty thousand dollars ($1,250,000) is hereby appropriated from the General Fund to the Executive Council for Business Management Functions. The Chairperson of the Executive Council for Business Management Functions may allocate up to $1,000,000 appropriated in this section to either the Department of Finance or the State Controller's Office solely for the purpose of contracting with an outside consultant to develop an enterprise system planning report for coordinating and directing statewide enterprise information technology efforts and business applications. The consultant shall also explore other issues and options, such as implementation strategies, costs and potential funding strategies, statewide architecture, and the governance structure for an enterprise-wide system. The contractor shall submit a report to the Executive Council for Business Management Functions on or before June 30, 2006. Any funds appropriated for the purpose of this section, up to one million dollars ($1,000,000) may be used to contract with an outside consultant experienced in enterprise resource planning systems selected from the Department of General Services Master Services Agreement list.*
> *Any remaining unallocated moneys, or any allocated moneys not fully expended for this purpose shall revert to the General Fund. The Chairperson of the of the Executive Council for Business Management Functions may allocate up to two hundred and fifty thousand dollars ($250,000) appropriated in this section to the Department of Finance and/or the State Controller's Office for the purpose of providing support for this project.*

Staff Comment: Given the ultimate scope and cost of the proposed project, this Control Section cannot be approved without careful deliberation over the long term objective. A first step would be to review departmental analysis for the related California Performance Review (CPR) proposals. CPR recommendations have likely already been analyzed by a number of state departments, including DOF, DGS, and the Controller. The administration should submit these reviews to the Legislature to demonstrate any gaps in the state's knowledge that would benefit from additional consultant costs.

Staff Recommendation: Reject the Control Section 8.81 Finance Letter.

VOTE:

Control Section 25.50

Funding Reallocation for Apportionment Payment System. The Administration requests that Control Section 25.50 be amended to reflect the reallocation of charges among special funds for the Apportionment Payment System. The charges were reallocated among the special funds to reflect more recent 2003-04 data for apportionment payments. Overall funding for the project is unchanged. Below is the revised Control Section 25.50:

SEC. 25.50. Notwithstanding any other provision of law, an amount not to exceed one million six-hundred eighty five thousand dollars ($1,685,000) is hereby appropriated from various funds to the State Controller as specified below for reimbursement of costs for the procurement, development, and implementation of a new Apportionment Payment System:

0046	*Public Transportation Account*	~~*22,000*~~	*$17,000*
0062	*Highway Users Tax Account*	~~*407,000*~~	*525,000*
0064	*Motor Vehicle License Fee Account*	~~*501,000*~~	*34,000*
0330	*Local Revenue Fund*	~~*246,000*~~	*417,000*
0877	*DMV Local Agency Collection Fund*	~~*3,000*~~	*6,000*
0932	*Trial Court Trust Fund*	~~*213,000*~~	*288,000*
0965	*Timber Tax Fund*	~~*4,000*~~	*2,000*
0969	*Public Safety Account*	~~*289,000*~~	*396,000*
	Total, All Funds		*$ 1,685,000*

The Controller shall assess these funds for the costs of the new Apportionment Payment System because apportionment payments in excess of ten million dollars ($10,000,000) are made annually from these funds. Assessments in support of the expenditures for the Apportionment Payment System shall be made monthly, and the total amount assessed from these funds may not exceed the total expenditures incurred by the State Controller for the Apportionment Payment System for the 2005-06 fiscal year.

This Control Section was initially approved by the Committee on April 13. Subsequent to that hearing it was determined that the schedule of reimbursements was inaccurate and would need to be revised.

Staff Recommendation: Approve the amendments to Control Section 25.50 contained in the May Revision Finance Letter.

VOTE:

Control Section 33.50

Strategic Sourcing. The Administration requests that Control Section 33.50 be amended to allow the Department of Finance (DOF) to periodically reduce departmental appropriations as actual savings data becomes available (Attachment I).

The revised control section does not include any pre-determined savings that may result from the state's strategic sourcing efforts but, rather, allows the DOF to reduce department appropriations if savings should occur at some point during the budget year. In addition, it requires DOF to notify the Legislature at least 30 days before reducing those appropriations.

Staff Comment: The proposed budget bill language has been amended to reflect an LAO recommendation to provide for a higher level of detail than previously requested, consistent with making mid-year adjustments.

SEC.33.50 Notwithstanding any other provision of law, the Department of Finance is authorized to periodically reduce amounts in items of appropriation in this act for the 2005-06 fiscal year to reflect actual savings resulting from California's Procurement Initiative for the 21st Century. At least 30 days prior to the reduction of any item of appropriation, the Director shall provide notice to the Chairperson of the Joint Legislative Budget Committee. <u>The notice shall include, but is not limited to, (1) identification of the departments that received the savings, (2) when and how the savings was achieved, (3) identification of the types of goods and services where savings was achieved, and (4) the methodology used to calculate the savings.</u>

Staff Recommendation: Adopt the proposed budget bill language as amended above.

VOTE:

TRAILER BILL

Office of the Inspector General
An Act to Establish the Office of State Inspector General

1. Creation of the Office of Inspector General

There is hereby created in California State Government the Office of State Inspector General.

2. Purpose

The purpose of this legislation is to establish a full-time program of audit, investigation and performance review to provide increased accountability, integrity and oversight of the executive branch and to assist in improving agency operations and deterring and identifying fraud, abuse and illegal acts.

3. Legislative Intent

The intent of this legislation is to create a wholly independent Office of the State Inspector General to conduct investigations, audits, evaluations, inspections and other reviews in accordance with those professional standards that relate to the fields of investigation and auditing in government environments.

4. Appointment

The State Inspector General shall be appointed by the Governor, subject to confirmation by the Senate. The State Inspector General is to be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields. In addition, the Inspector General should possess demonstrated knowledge, skills, abilities and experience in conducting audits and investigations.

5. Term of Office

The State Inspector General is appointed for a term of five years, which may be renewed at the discretion of the Governor.

6. Removal from Office

The State Inspector General may be removed from Office for cause within the five-year appointment by the Governor subject to notifying the Senate of the reasons for removal.

7. Resources

The Office of the State Inspector General will receive funds adequate to meet its mission. The State Inspector General shall establish the organization structure appropriate to carrying out the responsibilities and functions of the Office.

Employees of the Office of the State Inspector General shall be exempt from civil service, appointed by the Governor and serve at the pleasure of the State Inspector General. Within budget limitations, the Inspector General may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to independently perform the functions of the office.

8. Organizational Placement

The State Inspector General reports to the Governor and the Legislature, yet is operationally independent such that neither shall not prevent, impair, or prohibit the State Inspector General from initiating, carrying out, or completing any audit, investigation or review.

9. Records Disclosure

The audit and investigation reports of the Office of the State Inspector General shall be public records to the extent that they do not include information that has been made confidential and exempt from release to the public. During the course of audit and investigation activities, all records will be considered deliberative in process and not available for outside review. Names and identities of individuals making complaints and information protected by whistleblower or other legislation will not be disclosed without the written consent of the individual unless required by law or judicial processes. Similarly, the State Inspector General shall maintain the confidentiality of any public records that are made confidential by law and shall be subject to the same penalties as the custodian of those public records for violating confidentiality statutes. Overall, efforts will be made to protect the privacy of individuals or employees whenever possible without interfering in the judicial or administrative processes initiated to protect the public.

10. Reporting Office Activities

The State Inspector General will report the findings of the Office's work to the head of the investigated or audited agency, the Governor, the Legislature and the public. The State Inspector General shall also report criminal investigative matters to the appropriate law enforcement and prosecutorial agencies.

The Office of the State Inspector General shall immediately report to the head of the agency involved whenever it becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the agency or interference with operations of the State Inspector General. Within 60 days of the end of each fiscal year, the State Inspector General shall issue an annual report that separately lists audit and review reports and other investigative or assistance efforts completed during the fiscal year. The report shall describe accomplishments of the Office of State Inspector General. Copies of the report shall be provided to the Governor and the Legislature and shall be made available to the public.

11. Authority

The Office of Inspector General is authorized to engage in the following specific functions:

a) Audit, evaluate, investigate and inspect the activities, records and individuals with contracts, procurements, grants, agreements, and other programmatic and financial arrangements undertaken by executive branch agencies and any other function, activity, process or operation conducted by or on behalf of executive branch agencies.

b) Conduct criminal, civil and administrative investigations.

c) Audit the economy, efficiency, and effectiveness of executive branch operations and functions.

d) Provide information and evidence that relates to criminal acts to appropriate law enforcement officials.

e) Initiate such reviews or audits of executive branch agencies as deemed appropriate.

f) Receive and investigate complaints from any source or upon its own initiative concerning alleged abuses, frauds and service deficiencies including deficiencies in the operation and maintenance of facilities.

g) Engage in prevention activities, including but not limited to: review of legislation; review of rules, regulations, policies, procedures, and transactions; training and education.

h) Refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies.
i) Conduct joint investigations and projects with other oversight or law enforcement agencies.

j) Recommend remedial actions to be taken by the executive branch agencies to overcome or correct operating or maintenance deficiencies and inefficiencies that were identified by the Office.

k) Issue public reports as set forth in section 10.

l) Monitor implementation of recommendations made by the Office and other audit agencies.

m) Establish policies and procedures to guide functions and processes conducted by the Office.

n) Attend any meetings held by executive branch agencies.

o) Maintain information regarding the cost of investigations and cooperate with appropriate administrative and prosecutorial agencies in recouping such costs from nongovernmental entities involved in willful misconduct.

p) Do all things necessary to carry out the functions set forth in this section.

12. Powers

The Office of State Inspector General is provided the following powers to accomplish the intent of this legislation:

a) The right to obtain full and unrestricted access to all offices, limited access or restricted areas, employees, records, information data, reports, plans, projections, matters, contracts, memoranda, correspondence and any other materials, including electronic data of executive branch agencies or any other organization that may be involved with an executive branch agency. This power supersedes any claim of privilege.

b) The authority to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents, including electronic data as is deemed to be relevant to any inquiry or investigation undertaken. This power may be delegated to a duly authorized deputy inspector general by the State Inspector General.

c) Have access to the head of any executive branch agency, when necessary for purposes related to the work of the Office.
d) Require employees of executive branch agencies to report to the Office of the State Inspector General information regarding fraud, waste, corruption, illegal acts, and abuse.

13. Quality Review

Audits, investigations, inspections and reviews shall be subject to quality assurance reviews by the Bureau of State Audits every five years. A copy of the written report resulting from this review shall be furnished to the Governor and the Legislature and be made available to the public.

14. Renaming the Office of Inspector General

The existing Office of Inspector General with jurisdiction for youth and adult correctional programs shall be renamed the Office of Inspector General for the Department of Corrections and Rehabilitation.

Franchise Tax Board
Solar and Wind Energy Tax Credit

SECTION 1. Section 73 of the Revenue and Taxation Code is amended to read:

73. (a) Pursuant to the authority granted to the Legislature pursuant to paragraph (1) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed," as used in subdivision (a) of Section 2 of Article XIII A of the California Constitution, does not include the construction or addition of any active solar energy system, as defined in subdivision (b).(b) (1) "Active solar energy system" means a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.

(2) "Active solar energy system" does not include solar swimming pool heaters or hot tub heaters.

(3) Active solar energy systems may be used for any of the following:

(A) Domestic, recreational, therapeutic, or service water heating.

(B) Space conditioning.

(C) Production of electricity.

(D) Process heat.

(E) Solar mechanical energy.

(c) (1) (A) The Legislature finds and declares that the definition of spare parts in this paragraph is declarative of the intent of the Legislature, in prior statutory enactments of this section that excluded active solar energy systems from the term "newly constructed," as used in the California Constitution, thereby creating a tax appraisal exclusion.

(B) An active solar energy system that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices ~~such as~~ *, including* solar cells or other collectors. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of the transmission or use of the electricity. For the purpose of this paragraph, the term "parts" includes spare parts that are owned by the owner of, or the maintenance contractor for, an active solar energy system that uses solar energy in the production of electricity and which spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active solar energy system that uses solar energy in the production of electricity, thereby including those parts in the tax appraisal exclusion created by this section.

(2) An active solar energy system that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are active solar energy

system property only to the extent of 75 percent of their full cash value.

(3) An active solar energy system that uses solar energy in the production of electricity does not include auxiliary equipment, such as furnaces and hot water heaters, that use a source of power other than solar energy to provide usable energy. An active solar energy system that uses solar energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment, that is, dual use equipment. That equipment is active solar energy system property only to the extent of 75 percent of its full cash value.

(d) This section shall apply to property tax lien dates for the 1999-2000 to ~~2004-05~~ *2016-17* fiscal years, inclusive. For purposes of supplemental assessment, this section shall apply only to qualifying construction or additions completed on or after January 1, 1999.

(e) This section shall remain in effect only until January 1, ~~2006~~ *2018*, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, ~~2006~~ *2018*, deletes or extends that date.

SEC. 2. Section 17053.84 of the Revenue and Taxation Code is amended to read:

17053.84. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(b) For each taxable year beginning on or after January 1, 2004, and before January 1, ~~2006~~ *2017*, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) "Applicable dollar amount" means four dollars and fifty cents ($4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, ~~2006~~ *2017*.

(2) "Solar energy system" means a solar energy device, in the form of a photovoltaic system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) "Wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, with a peak generating capacity of up to, but not exceeding, 200 kilowatts, use for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(4) A credit may be allowed under this section with respect to only one solar or wind energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(5) No credit may be allowed under this section unless the solar or wind energy system is actually used for purposes of producing electricity and primarily used to meet the taxpayer's own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar or wind energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit shall be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar or wind energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar or wind energy system is first placed in service in this state, the amount of credit allowed by this section for that solar or wind energy system shall be recaptured by adding that credit amount to the net tax of the taxpayer for the taxable year in which the solar or wind energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, ~~2006~~ *2017* , and as of that date is repealed.

SEC. 3. Section 23684 of the Revenue and Taxation Code is amended to read:

23684. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.(b) For each taxable year beginning on or after January 1, 2004, and before January 1, ~~2006~~ *2017* , there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) "Applicable dollar amount" means four dollars and fifty cents ($4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, ~~2006~~ *2017* .

(2) "Solar energy system" means a solar energy device, in the form of a photovoltaic system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) "Wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, with a peak generating capacity of up to, but not exceeding, 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(4) A credit may be allowed under this section with respect to only one solar or wind energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(5) No credit may be allowed under this section unless the solar or wind energy system is actually used for purposes of producing electricity and is primarily used to meet the taxpayer's own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar or wind energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit may be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar or wind energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar or wind energy system is first placed in service in this state, the amount of credit allowed by this section for that solar or wind energy system shall be recaptured by adding that credit amount to the tax of the taxpayer for the taxable year in which the solar or wind energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, ~~2006~~ *2017* , and as of that date is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties imposed on a local agency or school district by this act were expressly included in a ballot measure approved by the voters in a statewide election, within the meaning of Section 17556 of the Government Code. Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Department of Finance

DRAFT: Executive Council for Business Management Functions

SECTION 1. Chapter 4 (commencing with Section 13370) is added to Part 3 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4. BUSINESS MANAGEMENT FUNCTIONS

Section 13370. Title

13370. This chapter shall be known and may be cited as the Business Management Functions Act.

Section 13371. Findings and Declarations

13371. The Legislature finds and declares as follows:

(a) Existing state systems do not provide policy-makers and the public with timely, comprehensive and accessible data about important state agency operations such as ongoing expenditures and spending trends, vacancies in positions, the status of state assets, and procurement activity;

(b) The absence of timely, comprehensive and accessible data about state agency operations seriously interferes with proper management and effective oversight of state operations;

(c) Many state agencies have developed their own automated systems to provide their own management with more timely, comprehensive and accessible data about state agency operations, yet those independently developed systems are not interoperable across the enterprise;

(d) The acquisition, adoption and use of statewide data and process standards and statewide systems to support business management functions would substantially improve the state’s ability to manage and deploy its human and other resources responsibly, cost-effectively and in accordance with law; and,

(e) Current administrative practices related to business management functions need to be evaluated and, where appropriate, changed to remove redundancy and eliminate counterproductive administrative steps to achieve improved levels of support and functionality.

Section 13372. Definitions

13372. For purposes of this chapter, the following terms shall have the following meanings, unless the context requires otherwise:

(a) “Chart of accounts” means the complete set of standard code definitions used to classify and record common business function transactions in a meaningful way.

(b) “Business management functions” means functions performed by a substantial majority of state agencies including, but not limited to, such functions as planning, budgeting, general accounting, accounts receivable and payable, human resources management, fee collection, asset management, document and records management, workers compensation, purchasing, inventory and vendor control, and grants processing.

(c) “Enterprise architecture for business management functions” means a strategic information base which defines business management functions, the information necessary to operate business management functions, the technologies necessary to support business management functions, and the transitional processes necessary for implementing new business management function technologies.

(d) “Executive Council” means the Executive Council for Business Management Functions established by this chapter.

Section 13373. Executive Council for Business Management Functions

13373. The Executive Council for Business Management Functions is hereby established in state government to provide coordinated leadership in the planning and development of systems to be used by state agencies to support business management functions.

Section 13374. Membership on the Executive Council

13374. The Executive Council shall consist of the following members:

(a) The Director of Finance, who shall serve as chair of the Executive Council;

(b) The Controller;

(c) The Treasurer;

(d) The Secretaries of the Business, Transportation and Housing Agency, the Health and Human Services Agency, the State and Consumer Services Agency, and the Department of Corrections and Rehabilitation,;

(e) The Directors of the Department of General Services and the Department of Personnel Administration; and,

(f) The State Chief Information Officer.

Section 13375. Meetings of the Executive Council

13375. (a) The Executive Council shall meet not less than once each quarter.

(b) For purposes of the Bagley-Keene Open Meeting Act (Article 3 (commencing with Section 11120) of Chapter 2), meetings of the Executive Council shall be limited to meetings convened solely for the specific purpose of carrying out the activities of the Executive Council. The Bagley-Keene Open Meeting Act shall not be construed to apply to any meeting attended by any or all members of the Executive Council in other official capacities convened for other purposes.

(c) A quorum shall consist of six members of the Executive Council. All decisions of the Executive Council shall be made by a majority vote of the voting membership of the full Executive Council.

(d) The Department of Finance shall provide administrative support to the Executive Council.

Section 13376. Enterprise Architecture for Business Management Functions

13376. *(a)* The Executive Council shall establish an enterprise architecture for business management functions.

(b) The Executive Council may require a state agency or all state agencies to use part or all of the enterprise architecture for business management functions under such conditions as the Executive Council may fix.

(c) All state agencies shall cooperate with the Executive Council in establishing the enterprise architecture for business management functions and shall provide such assistance and resources as needed to implement this section.

Section 13377. Chart of Accounts

13377. (a) The Executive Council will begin developing the enterprise architecture for business management functions by establishing a chart of accounts.

(b) The Department of Finance may retain the services of a consultant to assist in the preparation of the chart of accounts.

(c) Notwithstanding Section 10365.5 of the Public Contracting Code, a consultant retained pursuant to this section for the purpose of assisting in the preparation of a chart of accounts shall not be barred from bidding on, or being awarded, any contract to design, develop or implement any business management function system for any state agency.

Section 13378. Enterprise System Planning Report

13378. The Executive Council, or department(s) designated by the Executive Council, may contract with an outside vendor to develop an enterprise system planning report for coordinating and directing statewide enterprise-wide information technology efforts and business applications.

Section 13379. Reporting Requirements of the Executive Council

13379. The Executive Council will report annually on its activities and progress to the Governor and the Joint Legislative Budget Committee. The first report shall be submitted on or before October 1, 2006, and shall include, among other things, a statement of the Executive Council's vision for the acquisition, adoption and use of enterprise-wide data and process standards and enterprise-wide systems to support business management functions.

Local Government Financing

Open Meetings Act

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall either post an agenda containing a brief general description, generally not to exceed 20 words, of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, or post an agenda and any nonconfidential materials provided in advance of the meeting to the members of the legislative body. ~~A brief general description of an item generally need not exceed 20 words.~~ The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 54954.2 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to authorize a legislative body of a local agency to provide to the public the same materials provided to members of the legislative body in advance of a meeting, it is necessary to provide an alternative to requiring the body to post an agenda that contains a brief general description of each item of business on the agenda.

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Item 9840

Augmentation for Contingencies and Emergencies

9840-001-0001—For Augmentation for Contingencies or Emergencies 50,000,000

Provisions:

1. Subject to the conditions set forth in this item, amounts appropriated by this item shall be transferred, upon approval by the Director of Finance, to augment any other General Fund item of appropriation that is made under this act to an agency, department, board, commission, or other state entity. Such a transfer may be made to fund unanticipated expenses to be incurred for the 2005–06 fiscal year under an existing program that is funded by that item of appropriation, but only in a case of actual necessity as determined by the Director of Finance. For purposes of this item, an ''existing program'' is one that is authorized by law.

2. The Director of Finance may not approve a transfer under this item, *nor may any funds appropriated in augmentation of this item be allocated* ~~or a request to fund a contingency or emergency from a supplemental appropriations bill~~ to fund any of the following: (a) capital outlay, (b) any expense attributable to a prior fiscal year, (c) any expense related to legislation enacted without an appropriation, (d) startup costs of programs not yet authorized by the Legislature, (e) costs that the administration had knowledge of in time to include in the May Revision, or (f) costs that the administration has the discretion to incur or not incur.

3. A transfer of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees, or no sooner than any lesser time the chairperson of the joint committee or his or her designee may in each instance determine, except for an approval for an emergency expense as defined in Provision 5.

~~*4. The Director of Finance Requests for funding contingencies or emergencies through a supplemental appropriations bill will be considered for inclusion in a bill after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees.*~~

4. Each notification shall include all of the following: (a) the date the recipient state entity reported to the Department of Finance the need to increase its appropriation, (b) the reason for the expense, (c) the transfer amount approved by the Director of Finance, and (d) the basis of the director's determination that the expense is actually needed.

Each notification shall also include a determination by the director as to whether the expense was considered in a legislative budget committee and formal action was taken not to approve the expense for the 2005–06 fiscal year. Any increase in a department's appropriation to fund unanticipated expenses shall be approved by the Director of Finance.

5. The Director of Finance may approve a transfer under this item for an emergency expense only if the approval is set forth in a written notification that is filed with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees, no later than 10 days after the effective date of the approval. Each notification for an emergency expense shall state the reason for the expense, the transfer amount approved by the director, and the basis of the director's determination that the expense is an emergency expense. For the purposes of this item, ''emergency expense'' means an expense incurred in response to conditions of disaster or extreme peril that threaten the immediate health or safety of persons or property in this state.

6. Within 15 days of receipt, the Department of Finance shall provide, to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate and Assembly fiscal committees, copies of all requests, including any supporting documentation, from any agency, department, board, commission, or other state entity for a transfer under this item. The submission to the Legislature of a copy of such a request does not constitute approval of the request by the Director of Finance. Within 15 days of receipt, the director shall also provide copies to these chairpersons of all other requests received by the Department of Finance from any state agency, department, board, commission, or other state entity *to fund a contingency or emergency through a supplemental appropriations bill augmenting this item.*

7. *(a)* For any transfer of funds pursuant to this item, the augmentation of a General Fund item of appropriation shall not exceed the following during any fiscal year:

(1) 20 percent of the amount scheduled on that line for those appropriations made by this act that are $2,000,000 or less.

(2) $400,000 of the amount scheduled on that line for those appropriations made by this act that are more than $2,000,000 but equal to or less than $4,000,000.

(3) 10 percent of the amount scheduled on that line for those appropriations made by this act that are more than $4,000,000.

~~*(b) Any transfer in excess of the limitations provided in Provision 8 (a) may be authorized not sooner than 30 days after notification in writing of the necessity to exceed the limitations is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than any lesser time the chairperson of the joint committee or his or her designee, may in each instance determine.*~~

8. The Director of Finance may withhold authorization for the expenditure of funds transferred pursuant to this item until such time as, and to the extent that, preliminary estimates of potential unanticipated expenses are verified.

9. The Director of Finance shall submit any requests for supplemental appropriations in augmentation of this item to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house. Requests shall include the information and determinations required by provisions 4 and 5. Any amounts appropriated in augmentation of this item shall be subject to each and all of the provisions of this item unless specifically waived by the legislation making the appropriation.

9840-001-0494—For Augmentation for Contingencies or Emergencies, payable from unallocated special funds.. 15,000,000

Provisions:

1. Provisions 1, 2, 3, 4, 5, 6, 7, *8 and 9* of Item 9840-001-0001 also apply to this item, except references to General Fund appropriations shall instead refer to special fund appropriations.
2. For the Augmentation for Contingencies or Emergencies, payable from special funds, there are appropriated from each special fund sums necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance.

9840-001-0988—For Augmentation for Contingencies or Emergencies, payable from unallocated nongovernmental cost funds 15,000,000

Provisions:

1. Provisions 1, 2, 3, 4, 5, 6, *7, 8, and 9* of Item 9840-001-0001 also apply to this item, except references to General Fund appropriations shall instead refer to nongovernmental cost fund appropriations.
2. For Augmentation for Contingencies or Emergencies, payable from nongovernmental cost funds, there is appropriated from each nongovernmental cost fund that is subject to control or limited by this act, sums necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance.

Clarification of State Public Works Board Authority to Capitalize Interest and to Issue Lease-Revenue Bonds for any Phase of a Lease Revenue Bond Funded Project

Section 1: Section 15849.6 of the Government Code is amended to read:

15849.6. Notwithstanding any provision of this part to the contrary, the board may issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment as shall be authorized by the Legislature, in the total amount as shall be authorized by the Legislature, and any additional amount as shall be authorized by the board to pay the cost of financing. This additional amount may include interest during acquisition or <u>interest prior to, during and for a period of six months after</u> construction of the public building, facility, or equipment, interest payable on any interim loan for the public building, facility, or equipment from the General Fund pursuant to Section 15849.1 or from the Pooled Money Investment Account pursuant to Section 16312 or 16313, a reasonably required reserve fund, and the costs of issuance of permanent financing after completion of the construction or acquisition of the public building, facility, or equipment.

This section shall be applicable to, but not limited to, bonds, notes, or obligations of the board which were authorized by appropriations of the legislature made prior to the effective date of this section.

Section 2: Section 15849.7 of the Government Code is added to read:

15849.7. Notwithstanding any other provision of law, including previous specific but more limited grants of authority on or after June 30, 2001, the State Public Works Board is authorized to issue bonds, notes, or bond anticipation notes for any and all phases of any capital outlay project authorized to be financed pursuant to Chapter 5 (commencing with section 15830).

Section 3.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to issue lease-revenue bonds for all phases of certain capital outlay projects appropriated after June 30, 2001, it is necessary that this act take effect immediately.